

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

December 21, 1999

Docket No. 1999-780

ENERGY SUPPLY, INC.
Application for License to Operate as a
Competitive Electricity Provide

ORDER GRANTING LICENSE

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

In this Order, we license Energy Supply, Inc. to operate as a competitive electricity furnishing aggregator/broker services in Maine pursuant to Chapter 305 of the Commission's Rules.

II. APPLICATION

On November 4, 1999, Energy Supply, Inc. applied to the Commission for a license to operate in Maine as a competitive electricity provider, as provided in Chapter 305. On December 10, 1999, Energy Supply, Inc. filed additional information to supplement its earlier filing.

A. Type of Service Proposed

Energy Supply, Inc. proposes to act as an aggregator or broker for electric service provided to the public at retail. Energy Supply, Inc.'s application states that the proposed licensee plans to market "advisory, information, and consultative services to any class of customer that desires the Corporation to represent their interests related to energy markets, opportunities for sourcing energy requirements, aggregation, supply acquisition, energy supply, efficiency services and negotiant on its behalf." Energy Supply stated it anticipates to provide those services throughout all areas of Maine.

B. Fee Paid

With its application, Energy Supply, Inc. paid a \$100 fee to the Commission, as required by section 2(C)(5) of Chapter 305.

III. FINANCIAL ISSUES

A. Security

Energy Supply, Inc. will operate as an electricity broker/aggregator in Maine. Pursuant to section 2(B)(1)(a)(i) of Chapter 305, Energy Supply, Inc. does not have to furnish a security instrument to the Commission.

B. Showing of Professional and Financial Capability

Energy Supply, Inc. will operate as an electricity broker/aggregator in Maine, and accordingly is required to demonstrate its professional responsibility pursuant to section 2(B)(1)(b) of Chapter 305. Energy Supply, Inc. filed supporting information to demonstrate its professional responsibility. We have reviewed that information and find that it complies with the requirements of Chapter 305. Energy Supply, Inc. stated that it will not hold retail customer funds, and accordingly is not required to demonstrate its financial capability pursuant to section 2(B)(1)(b) of Chapter 305. If Energy Supply, Inc. wishes to hold customer funds in the future, it must first obtain authority from the Commission.

IV. TECHNICAL ISSUES

A. Showing of Technical Capability

Energy Supply, Inc. will operate as an electricity broker/aggregator in Maine; accordingly, Energy Supply, Inc. is required to demonstrate its technical fitness to conduct its proposed business pursuant to section 2(B)(2)(c) of Chapter 305. Energy Supply, Inc. filed supporting information to demonstrate its technical capability. We have reviewed that information and find that it complies with the requirements of Chapter 305.

B. Resource Portfolio

Energy Supply, Inc. will operate as an electricity broker/aggregator in Maine. Pursuant to section 2(B)(4) of Chapter 305, Energy Supply, Inc. is not required to demonstrate an ability to meet the resource portfolio requirement of 35-A M.R.S.A. § 3210 and the portfolio requirement reporting rules in Chapter 311 of the Commission's rules.

V. CONSUMER PROTECTION ISSUES**A. Showing of Fitness**

In its application, Energy Supply, Inc. provided information required by Chapter 305 section 2(B)(3) related to enforcement proceedings and customer complaints. We have reviewed that information and find that it meets the requirements of Chapter 305.

B. Do-Not-Call List

Chapter 305 section 4(l) states that “[t]he Commission will maintain or cause to be maintained a ‘Do-Not-Call’ list of customers who have requested -- orally, in writing, or by commercially accepted electronic means -- that they not receive telemarketing calls from competitive electricity providers.” We require that licensees use do-not-call list mechanisms already in place nationally to satisfy that requirement. To the extent that it telemarkets to Maine consumers, Energy Supply, Inc. shall comply with the following requirements.

Energy Supply, Inc. must comply with the requirements of the Telephone Consumer Protection Act,¹ the Telemarketing and Consumer Fraud and Abuse Prevention Act,² and related rules of the Federal Communications Commission³ and Federal Trade Commission.⁴ Energy Supply, Inc. must comply with those requirements and must maintain its own do-not-call list as required by those laws and rules, for all intrastate and interstate telemarketing of Maine consumers, including both residential and business customers. Energy Supply, Inc. shall not telemarket to Maine customers on that list, as required in Chapter 305 section 4(l)(1). Energy Supply, Inc. shall update its do-not-call list at least monthly, and maintain copies of that list for at least six months. Energy Supply, Inc. shall provide a copy of that list to the Commission upon request.

Further, each month, Energy Supply, Inc. must obtain listings of Maine consumers who have arranged to be included on the do-not-call list maintained by the Telephone Preference Service of the Direct Marketing Association, Inc.⁵ Energy Supply, Inc. shall not telemarket to Maine customers on that list, as required in Chapter 305 section 4(l)(1).

¹47 U.S.C. § 227

²15 U.S.C. §§ 6101-6108

³47 CFR 64.1200

⁴FTC Telemarketing Sales Rule, 16 CFR Part 310

⁵Telephone Preference Service, Direct Marketing Association, Inc., P.O. Box 9014, Farmingdale, NY 11735-9014

VI. ADDITIONAL PROVISIONS

Energy Supply, Inc. must comply with all applicable requirements and limitations in Chapter 305 not explicitly waived in this Order. Energy Supply, Inc. must also comply with all requirements and limitations in other applicable Commission rules, including any applicable future changes in Maine laws and Commission rules, and in other parts of this Order.

VII. ORDERING PARAGRAPHS

Accordingly, we

1. license Energy Supply, Inc. to operate as a competitive electricity provider in Maine; under this license, Energy Supply, Inc. may operate only as an aggregator/broker, as defined in Chapter 305 of the Commission's Rules;
2. order that Energy Supply, Inc. may not hold retail customer funds;
3. order Energy Supply, Inc. to comply with all Do-Not-Call List requirements contained in Part V(B) of this Order to the extent that it telemarkets to Maine consumers; and
4. order that this license is effective on the date of this Order and valid until revoked by the Commission pursuant to section 3(A)(4) of Chapter 305, or abandoned by the licensee pursuant to sections 2(C)(9) and 2(C)(11) of Chapter 305 of the Commission's Rules.

Dated at Augusta, Maine, this 21st day of December, 1999.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch

Nugent
Diamond

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R. 110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission to the Maine Supreme Judicial Court, sitting as the Law Court, is not available, as provided in 47 U.S.C. § 252(e)(6).
3. Review of this discussion is available to an aggrieved party by bringing an action in federal district court, as provided in 47 U.S.C. § 252(e)(6).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.